

110TH CONGRESS
1ST SESSION

S. 1749

To amend the Federal Rules of Criminal Procedure to provide adequate protection to the rights of crime victims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2007

Mr. KYL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Federal Rules of Criminal Procedure to provide adequate protection to the rights of crime victims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; SENSE OF CONGRESS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Crime Victims’ Rights Rules Act of 2007”.

6 (b) SENSE OF CONGRESS CONCERNING CRIME VIC-
7 TIMS’ REPRESENTATION IN THE FEDERAL CRIMINAL
8 JUSTICE SYSTEM.—

9 (1) FINDINGS.—Congress finds that—

1 (A) the amendments made by title I of the
2 Justice for All Act of 2004 (Public Law 108–
3 405; 118 Stat. 2261) afford a crime victim cer-
4 tain rights and standing in court proceedings
5 involving an offense against that crime victim;

6 (B) the rights and standing afforded to
7 crime victims by those amendments are directly
8 affected by the Rules of Criminal Procedure,
9 which govern the administration of the Federal
10 criminal justice system.

11 (C) the Judicial Conference of the United
12 States, as the principal body concerned with the
13 administration of United States courts and the
14 recommendation of rules of procedure, has an
15 obligation to ensure that the rights and stand-
16 ing of crime victims are accounted for in the
17 Federal criminal justice system.

18 (2) SENSE OF CONGRESS.—It is the sense of
19 Congress that the Chief Justice of the United
20 States, having sole authority to appoint members of
21 committees of the Judicial Conference of the United
22 States, should designate not fewer than 1 member
23 on each of the Committee on Rules of Practice and
24 Procedure and the Advisory Committee on Criminal
25 Rules for the purpose of ensuring that the rights

1 and standing of crime victims are accounted for in
2 the Federal criminal justice system.

3 **SEC. 2. DEFINITIONS.**

4 Rule 1(b) of the Federal Rules of Criminal Procedure
5 is amended by adding at the end the following:

6 “(11) ‘Victim’ means a person directly and
7 proximately harmed as a result of the commission of
8 a Federal offense or an offense in the District of Co-
9 lumbia. In the case of a crime victim who is under
10 18 years of age, incompetent, incapacitated, or de-
11 ceased, the legal guardian of the crime victim or the
12 representative of the crime victim’s estate, family
13 member, or any other person appointed as suitable
14 by the court, may assume the crime victim’s rights
15 under these rules, but in no event shall the defend-
16 ant be named as such guardian or representative.”.

17 **SEC. 3. INTERPRETATION.**

18 Rule 2 of the Federal Rules of Criminal Procedure
19 is amended by inserting after “administration” the fol-
20 lowing: “to the government, the defendant, and the vic-
21 tim”.

22 **SEC. 4. ARREST WARRANT OR SUMMONS ON A COMPLAINT.**

23 Rule 4 of the Federal Rules of Criminal Procedure
24 is amended—

1 (1) in subdivision (a), in the second sentence,
 2 by inserting after “a summons,” the following: “if
 3 consistent with the right of the victim to be reason-
 4 ably protected from the accused,”; and

5 (2) in subdivision (c), by adding at the end the
 6 following:

7 “(5) REASONABLE NOTICE TO THE VICTIM.—
 8 Upon return of an executed warrant, the judge be-
 9 fore whom the defendant is brought shall direct that
 10 reasonable efforts be made to notify the victim re-
 11 garding the arrest and of the date, time, and place
 12 of the initial appearance and of the right of the vic-
 13 tim to be heard at the initial appearance.”.

14 **SEC. 5. INITIAL APPEARANCE.**

15 Rule 5 of the Federal Rules of Criminal Procedure
 16 is amended—

17 (1) in subdivision (a)—

18 (A) by redesignating paragraph (3) as
 19 paragraph (4); and

20 (B) by inserting after paragraph (2) the
 21 following:

22 “(3) REASONABLE NOTICE TO THE VICTIM.—
 23 Reasonable efforts shall be made to give notice to
 24 the victim of the date, time, and place of the initial

1 appearance and of the right of the victim to be
2 heard at the initial appearance.”;

3 (2) in subdivision (d)(3), by adding after the
4 period at the end the following: “In making the deci-
5 sion to detain or release the defendant, the judge
6 shall consider the right of the victim to be reason-
7 ably protected from the defendant and shall make
8 reasonable efforts to notify the victim if the defend-
9 ant is released and the conditions of such release.”;
10 and

11 (3) in subdivision (f), by inserting before the
12 period at the end the following: “and reasonable ef-
13 forts are made to give the victim notice and the
14 right to participate”.

15 **SEC. 6. PRELIMINARY HEARING.**

16 Rule 5.1 of the Federal Rules of Criminal Procedure
17 is amended—

18 (1) in subdivision (a), in the matter preceding
19 paragraph (1), by inserting after “a preliminary
20 hearing” the following: “, after making reasonable
21 efforts to give notice to the victim,”; and

22 (2) in subdivision (d), by inserting after
23 “prompt disposition of criminal cases” the following:
24 “and the right of the victim to proceedings free from
25 unreasonable delay”.

1 **SEC. 7. ARREST WARRANT OR SUMMONS ON AN INDICT-**
 2 **MENT OR INFORMATION.**

3 Rule 9(c)(3) of the Federal Rules of Criminal Proce-
 4 dure is amended by inserting before the period at the end
 5 the following: “, after making reasonable efforts to give
 6 notice to the victim”.

7 **SEC. 8. REASONABLE NOTICE TO VICTIMS.**

8 (a) IN GENERAL.—The Federal Rules of Criminal
 9 Procedure are amended by inserting after Rule 10 the fol-
 10 lowing:

11 **“Rule 10.1. Reasonable Notice to Victims**

12 “(a) IDENTIFICATION OF VICTIMS.—During the
 13 prosecution of a case, the attorney for the government
 14 shall at the earliest reasonable opportunity, identify any
 15 victim.

16 “(b) REASONABLE NOTICE OF CASE EVENTS.—Dur-
 17 ing the prosecution of a crime, and whenever reasonable
 18 notice is required to be provided under these rules, reason-
 19 able efforts shall be made to provide any victim the earliest
 20 possible notice of—

21 “(1) the scheduling, including scheduling
 22 changes or continuances, of each court proceeding
 23 that the victim is either required to attend or enti-
 24 tled to attend;

25 “(2) the release or detention status of a defend-
 26 ant or suspected offender;

1 “(3) the filing of charges against a defendant,
2 or the proposed dismissal of any charges, including
3 the placement of the defendant in a pretrial diver-
4 sion program and the conditions of such placement;

5 “(4) the right of the victim to make a state-
6 ment about pretrial release of the defendant;

7 “(5) the right of the victim to make a state-
8 ment about acceptance of a plea of guilty or nolo
9 contendere;

10 “(6) the right of the victim to attend a public
11 proceeding;

12 “(7) if the defendant is convicted, the date and
13 place set for sentencing and the right of the victim
14 to address the court at sentencing; and

15 “(8) after the defendant is sentenced, the sen-
16 tence imposed and the availability of the Bureau of
17 Prisons notification program, which provides the
18 date, if any, on which the offender will be eligible for
19 parole or supervised release.

20 “(c) MULTIPLE VICTIMS.—The attorney for the gov-
21 ernment shall advise the court if the attorney believes that
22 the number of victims makes it impracticable to provide
23 reasonable personal notice to each victim. If the court
24 finds that the number of victims makes it impracticable
25 to give reasonable personal notice to each victim, the court

1 shall fashion a reasonable procedure calculated to give rea-
 2 sonable notice under the circumstances.”.

3 (b) CONFORMING AMENDMENT.—The table of con-
 4 tents for the Federal Rules of Criminal Procedure is
 5 amended by inserting after the item relating to Rule 10
 6 the following:

“10.1 Reasonable Notice to Victims.”.

7 **SEC. 9. PLEAS.**

8 Rule 11 of the Federal Rules of Criminal Procedure
 9 is amended—

10 (1) in subdivision (a)(3), by striking “the par-
 11 ties’ views” and inserting the following: “the views
 12 of the parties and victims”;

13 (2) in subdivision (b), by adding at the end the
 14 following:

15 “(4) VICTIM’S VIEWS.—Before the court ac-
 16 cepts a plea of guilty or nolo contendere or allows
 17 any plea to be withdrawn, the court must address
 18 any victim who is present personally in open court.
 19 During this address, the court must determine
 20 whether the victim wishes to present views regarding
 21 the proposed plea or withdrawal and, if so, what
 22 those views are. The court shall consider the views
 23 of the victim in acting on the proposed plea or with-
 24 drawal.”; and

25 (3) in subdivision (c)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting after the second sentence the following: “The attorney for the government shall make reasonable efforts to notify any victim of, and consider the views of any victim about, any proposed plea negotiations.”; and

(B) in paragraph (2), by adding at the end the following: “When a plea is presented in open court, the attorney for the government or attorney for any victim shall advise the court if the attorney is aware that the victim has any objection to the proposed plea agreement.”.

SEC. 10. PLEADINGS AND PRETRIAL MOTIONS.

Rule 12(g) of the Federal Rules of Criminal Procedure is amended by adding at the end the following: “The court shall make reasonable efforts to notify the victim if the defendant is released under this subdivision.”.

SEC. 11. DISCLOSURES.

(a) ALIBI DEFENSE.—

(1) IN GENERAL.—Rule 12.1(b)(1)(A) of the Federal Rules of Criminal Procedure is amended—

(A) by striking “, address, and telephone number”; and

1 (B) by inserting after “each witness” the
2 following: “and the address and telephone num-
3 ber of each witness (other than a victim) that”.

4 (2) CONTINUING DUTY TO DISCLOSE.—Rule
5 12.1(c) of the Federal Rules of Criminal Procedure
6 is amended—

7 (A) by striking “, address,” and inserting
8 “of each additional witness and the address”;
9 and

10 (B) by inserting before “if:” the following:
11 “(other than a victim)”.

12 (b) PUBLIC AUTHORITY DEFENSE.—

13 (1) IN GENERAL.—Rule 12.3(a)(4)(C) of the
14 Federal Rules of Criminal Procedure is amended—

15 (A) by striking “, address, and telephone
16 number”; and

17 (B) by inserting after “each witness” the
18 following: “, and the address and telephone
19 number of each witness (other than a victim),
20 that”.

21 (2) CONTINUING DUTY TO DISCLOSE.—Rule
22 12.3(b) of the Federal Rules of Criminal Procedure
23 is amended—

1 (A) by striking “, address,” and inserting
2 the following: “of any additional witness and
3 the address”; and

4 (B) inserting before “if:” the following:
5 “(other than a victim)”.

6 **SEC. 12. DEPOSITIONS.**

7 Rule 15 of the Federal Rules of Criminal Procedure
8 is amended—

9 (1) in subdivision (a)(1), in the first sentence,
10 by inserting “, other than a victim,” after “a pro-
11 spective witness”; and

12 (2) by adding at the end the following:

13 “(i) VICTIM ATTENDANCE.—A victim may attend any
14 public deposition taken under this Rule.”.

15 **SEC. 13. DISCOVERY AND INSPECTION.**

16 Rule 16(a) of the Federal Rules of Criminal Proce-
17 dure is amended by adding at the end the following:

18 “(4) DISCLOSURE TO VICTIMS.—The govern-
19 ment may disclose to a victim any information that
20 the government has disclosed to the defendant.”.

21 **SEC. 14. SUBPOENAS.**

22 Rule 17(h) of the Federal Rules of Criminal Proce-
23 dure is amended—

24 (1) by striking “No party” and inserting the
25 following:

1 “(1) IN GENERAL.—No party”; and

2 (2) by adding at the end the following:

3 “(2) VICTIMS.—No record or document con-
 4 taining personal or confidential information about a
 5 victim may be subpoenaed without making reason-
 6 able efforts to give notice to the victim, given
 7 through the attorney for the government or for the
 8 victim, and an opportunity to be heard.”.

9 **SEC. 15. PRETRIAL CONFERENCE.**

10 Rule 17.1 of the Federal Rules of Criminal Procedure
 11 is amended by adding at the end the following: “The court
 12 shall make reasonable efforts to give the victim notice of
 13 any pretrial conference and a victim may attend and be
 14 heard on any matter relating to the rights of a victim.”.

15 **SEC. 16. VENUE.**

16 (a) IN GENERAL.—The second sentence of Rule 18
 17 of the Federal Rules of Criminal Procedure is amended
 18 by inserting after “the defendant” the following: “, the
 19 victim,”.

20 (b) PLEA AND SENTENCE.—Rule 20(a)(2) of the
 21 Federal Rules of Criminal Procedure is amended by in-
 22 serting before the period at the end the following: “, after
 23 consultation with the victim”.

24 (c) JUVENILES.—Rule 20(d)(1)(E) of the Federal
 25 Rules of Criminal Procedure is amended by inserting be-

1 fore the semicolon the following: “, after consultation with
2 the victim”.

3 (d) **TRANSFER FOR TRIAL.**—Rule 21 of the Federal
4 Rules of Criminal Procedure is amended by adding at the
5 end the following:

6 “(e) **VICTIMS’ VIEWS.**—The court shall not transfer
7 any proceeding without giving any victim an opportunity
8 to be heard. The court shall consider the views of the vic-
9 tim in making any transfer decision.”.

10 **SEC. 17. TRIAL.**

11 Rule 23(a)(3) of the Federal Rules of Criminal Pro-
12 cedure is amended by inserting before the period at the
13 end the following: “, after considering the views of the vic-
14 tim”.

15 **SEC. 18. INTERPRETERS.**

16 Rule 28 of the Federal Rules of Criminal Procedure
17 is amended in the first sentence, by inserting before the
18 period at the end the following: “, including an interpreter
19 for the victim”.

20 **SEC. 19. POST CONVICTION PROCEDURES.**

21 (a) **PRESENTENCE INVESTIGATION.**—Rule 32(c) of
22 the Federal Rules of Criminal Procedure is amended—

23 (1) in paragraph (1)(B), by striking “requires”
24 and inserting “permits”; and

25 (2) by adding at the end the following:

1 “(3) VICTIM INFORMATION.—The probation of-
 2 ficer shall determine whether any victim wishes to
 3 provide information for the presentence report.”.

4 (b) PRESENTENCE REPORT.—Rule 32 of the Federal
 5 Rules of Criminal Procedure is amended—

6 (1) in subdivision (d)—

7 (A) in paragraph (2)—

8 (i) in subparagraph (E), by striking
 9 “and” at the end;

10 (ii) by redesignating subparagraph
 11 (F) as subparagraph (G); and

12 (iii) by inserting after subparagraph
 13 (E) the following:

14 “(F) a description of the impact of the
 15 crime on the victim; and”; and

16 (B) in paragraph (3)(C), by inserting “,
 17 the victim,” after “the defendant”;

18 (2) in subdivision (e)(2)—

19 (A) by striking “The probation officer”
 20 and inserting the following:

21 “(A) IN GENERAL.—The probation offi-
 22 cer”; and

23 (B) by adding at the end the following:

24 “(B) VICTIMS.—The probation officer
 25 must give the presentence report to the victim

1 and any attorney for such victim at least 35
2 days before sentencing, unless the court, after
3 receiving an objection from the defendant, the
4 attorney for the government, or another victim,
5 finds that disclosure of a portion of the report
6 would be an unwarranted invasion of personal
7 privacy and not in the interest of justice, in
8 which case such portions shall be redacted.”;
9 and

10 (3) in subdivision (f)(1), by adding at the end
11 the following: “The attorney for the government or
12 for the victim shall raise for the victim any reason-
13 able objection by the victim to the presentence re-
14 port.”.

15 (c) DEPARTURES.—Rule 32(h) of the Federal Rules
16 of Criminal Procedure is amended by—

17 (1) striking “or in a party’s prehearing submis-
18 sion” and inserting “, in a party’s prehearing sub-
19 mission, or in a victim impact statement”; and

20 (2) adding at the end the following “The attor-
21 ney for the government or the victim shall advise de-
22 fense counsel and the court of any ground identified
23 by the victim that might reasonably serve as a basis
24 for departure.”.

1 (d) SENTENCING.—Rule 32(i) of the Federal Rules
2 of Criminal Procedure is amended—

3 (1) in paragraph (1)(C), by inserting after
4 “parties’ attorneys” the following: “and any victim”;

5 (2) in paragraph (1)(D), by inserting after
6 “allow a party” the following: “or a victim”;

7 (3) in paragraph (2), in the first sentence, by
8 inserting after “permit the parties” the following:
9 “or the victim”; and

10 (4) by amending subparagraph (B) of para-
11 graph (4) to read as follows:

12 “(B) BY A VICTIM.—Before imposing sen-
13 tence, the court must address any victim of the
14 crime who is present at sentencing and must
15 permit the victim to speak or submit any infor-
16 mation about the sentence.”.

17 (e) DEFINITIONS.—Rule 32 of the Federal Rules of
18 Criminal Procedure is amended by—

19 (1) striking subdivision (a);

20 (2) redesignating subdivisions (b) through (k)
21 as subdivisions (a) through (j) respectively;

22 (f) CONFORMING AMENDMENTS.—

23 (1) RULE 26.—Rule 26.2(g)(2) of the Federal
24 Rules of Criminal Procedure is amended by striking
25 “Rule 32(i)(2)” and inserting “Rule 32(h)(2)”.

1 (2) RULE 32.—Rule 32(h) of the Federal Rules
2 of Criminal Procedure, as so redesignated by sub-
3 section (e), is amended—

4 (A) in paragraph (1)(B), by striking “Rule
5 32(d)(3)” and inserting “Rule 32(c)(3)”; and

6 (B) in paragraph (4)(C), by striking “Rule
7 32(i)(4)” and inserting “Rule 32(h)(4)”.

8 (3) COPYRIGHT.—Section 2319(d)(1) of title
9 18, United States Code, is amended by striking
10 “Rule 32(c)” and inserting “Rule 32(b)”.

11 (4) RECORDINGS.—Section 2319A(d)(1) of title
12 18, United States Code, is amended by striking
13 “Rule 32(c)” and inserting “Rule 32(b)”.

14 (5) COUNTERFEIT GOODS OR SERVICES.—Sec-
15 tion 2320(d)(1) of title 18, United States Code, is
16 amended by striking “Rule 32(c)” and inserting
17 “Rule 32(b)”.

18 (6) CHILDREN.—Section 3509(f) of title 18,
19 United States Code, is amended by striking “Rule
20 32(c)” and inserting “Rule 32(b)”.

21 (7) PRESENTENCE REPORTS.—Section 3552 of
22 title 18, United States Code, is amended—

23 (A) in subsection (a), by striking “Rule
24 32(c)” and inserting “Rule 32(b)”; and

25 (B) in subsection (d)—

1 (i) by striking “The court shall assure
2 that” and inserting the following:

3 “(1) IN GENERAL.—The court shall assure
4 that”; and

5 (ii) by adding at the end the fol-
6 lowing:

7 “(2) CRIME VICTIMS.—The court shall assure
8 that, not later than 10 days before the date of sen-
9 tencing, the report filed under this section is dis-
10 closed to any crime victim (as that term is defined
11 in section 3771(e)) and any attorney for such crime
12 victim, except any portion of such report excised by
13 the court for compelling reasons or made confiden-
14 tial by law. If the court excises any portion of the
15 presentence report, it shall inform the parties and
16 the victim of its decision and shall state on the
17 record the reasons for the excision.”.

18 (8) PROBATION.—Section 3664(c) of title 18,
19 United States Code, is amended by striking “Rule
20 32(c)” and inserting “Rule 32(b)”.

21 **SEC. 20. REVOKING OR MODIFYING PROBATION OR SUPER-**
22 **VISED RELEASE.**

23 Rule 32.1 of the Federal Rules of Criminal Procedure
24 is amended—

25 (1) in subdivision (a)—

1 (A) in paragraph (1), in the matter pre-
 2 ceding subparagraph (A), by inserting after
 3 “must be taken” the following: “, with reason-
 4 able efforts to give notice to the victim and”;
 5 and

6 (B) in paragraph (6), by striking “The
 7 magistrate” and inserting the following: “After
 8 considering the right of the victim to be reason-
 9 ably protected, the magistrate”; and
 10 (2) in subdivision (b), by adding at the end the
 11 following:

12 “(3) CRIME VICTIMS.—The court shall make
 13 reasonable efforts to give notice to the victim before
 14 any revocation hearing.”.

15 **SEC. 21. NEW TRIAL.**

16 Rule 33(a) of the Federal Rules of Criminal Proce-
 17 dure is amended in the first sentence by inserting after
 18 “Upon the defendant’s motion” the following: “and after
 19 making reasonable efforts to give notice to the victim and
 20 an opportunity for the victim to be heard”.

21 **SEC. 22. ARRESTING JUDGMENT.**

22 Rule 34(a) of the Federal Rules of Criminal Proce-
 23 dure is amended in the matter preceding paragraph (1),
 24 by inserting after “must arrest judgment” the following:

1 “, after making reasonable efforts to give notice to the
2 victim and an opportunity to be heard,”.

3 **SEC. 23. CORRECTING OR REDUCING A SENTENCE.**

4 Rule 35 of the Federal Rules of Criminal Procedure
5 is amended—

6 (1) in subdivision (a), by inserting after “the
7 court” the following: “, after making reasonable ef-
8 forts to give notice to the victim and an opportunity
9 to be heard,”; and

10 (2) in subdivision (b), by inserting “, after
11 making reasonable efforts to give notice to the vic-
12 tim and an opportunity to be heard,” after “may re-
13 duce a sentence” each place the term appears.

14 **SEC. 24. CLERICAL ERROR.**

15 Rule 36 of the Federal Rules of Criminal Procedure
16 is amended by inserting after “it considers appropriate,”
17 the following: “including making reasonable efforts to give
18 notice to the victim,”.

19 **SEC. 25. STAYING A SENTENCE OR A DISABILITY.**

20 Rule 38(e)(1) of the Federal Rules of Criminal Proce-
21 dure is amended by inserting before the period at the end
22 the following: “, after making reasonable efforts to give
23 notice to the victim and an opportunity to be heard”.

1 **SEC. 26. VICTIM'S PRESENCE.**

2 (a) IN GENERAL.—The Federal Rules of Criminal
3 Procedure are amended by inserting after Rule 43 the fol-
4 lowing:

5 **“Rule 43.1 Victim’s Presence**

6 “(a) VICTIM’S RIGHT TO ATTEND.—A victim has the
7 right to attend any public court proceeding, unless the
8 court, based on clear and convincing evidence, determines
9 that testimony by the victim would be materially altered
10 if the victim heard other testimony at that proceeding. Be-
11 fore making any determination to exclude a victim, the
12 court shall make every effort to permit the fullest attend-
13 ance possible by the victim and shall consider reasonable
14 alternatives to the exclusion of the victim from the crimi-
15 nal proceeding. The reasons for any decision to exclude
16 a victim shall be clearly stated on the record.

17 “(b) PROCEEDING WITH AND WITHOUT REASON-
18 ABLE NOTICE.—

19 “(1) WITHOUT VICTIM.—The court may hold a
20 public proceeding without the attendance of a victim
21 if reasonable efforts have been made to give notice
22 to that victim under Rule 10.1.

23 “(2) WITHOUT NOTICE.—The court may hold a
24 public proceeding (other than a trial or sentencing)
25 without proper notice to a victim only if—

26 “(A) doing so is in the interests of justice;

1 “(B) the court makes reasonable efforts to
 2 provide prompt notice to that victim of the
 3 court’s action and of the victim’s right to seek
 4 reconsideration of the action if a victim’s right
 5 is affected; and

6 “(C) the court makes reasonable efforts to
 7 insure that notice will be properly provided to
 8 that victim for all subsequent public pro-
 9 ceedings.

10 “(c) NUMEROUS VICTIMS.—If the court finds that
 11 the number of victims makes it impracticable to afford all
 12 of the victims the right to be present, the court shall fash-
 13 ion a reasonable procedure to facilitate the attendance of
 14 the victims.

15 “(d) RIGHT TO BE HEARD ON VICTIM’S ISSUES.—
 16 In addition to any right to be heard established elsewhere
 17 under these rules, at any public proceeding at which a vic-
 18 tim has the right to attend, the victim has the right to
 19 be heard on any matter affecting the rights of a victim.”.

20 (b) CONFORMING AMENDMENT.—The table of con-
 21 tents for the Federal Rules of Criminal Procedure is
 22 amended by inserting after the item relating to Rule 43
 23 the following:

“43.1 Victim’s Presence.”.

1 **SEC. 27. COUNSEL FOR VICTIMS.**

2 Rule 44 of the Federal Rules of Criminal Procedure
3 is amended by adding at the end the following:

4 “(d) COUNSEL FOR VICTIMS.—When the interests of
5 justice clearly require, the court may appoint counsel for
6 a victim to assist the victim in exercising the rights of
7 the victim under these rules or any other provision of Fed-
8 eral law.”.

9 **SEC. 28. RIGHT TO BE HEARD.**

10 Rule 46 of the Federal Rules of Criminal Procedure
11 is amended by adding at the end the following:

12 “(k) VICTIM’S RIGHT TO BE HEARD.—A victim has
13 the right to be heard regarding any decision to release the
14 defendant. The court shall consider the views of the victim
15 and the right of the victim to be reasonably protected from
16 the defendant in making any release decision, including
17 such decisions in petty cases. In a case where the court
18 finds that the number of victims makes it impracticable
19 to afford all of the victims the right to be heard in open
20 court, the court shall fashion a reasonable procedure to
21 facilitate hearing from representative victims.”.

22 **SEC. 29. MOTIONS AND SUPPORTING AFFIDAVITS.**

23 Rule 47(b) of the Federal Rules of Criminal Proce-
24 dure is amended by adding at the end the following: “In
25 deciding whether to grant the government’s motion to dis-
26 miss, the court shall consider the views of the victim.”.

1 **SEC. 30. SERVING AND FILING PAPERS.**

2 Rule 49(a) of the Federal Rules of Criminal Proce-
 3 dure is amended by inserting after “on every other party”
 4 the following: “, and on the victim or any counsel for a
 5 victim who has entered a notice of appearance,”.

6 **SEC. 31. PROMPT DISPOSITION.**

7 Rule 50 of the Federal Rules of Criminal Procedure
 8 is amended to read as follows:

9 **“Rule 50. Prompt Disposition**

10 “(a) SCHEDULING PREFERENCE.—Scheduling pref-
 11 erence shall be given to criminal proceedings as far as is
 12 practicable.

13 “(b) DEFENDANT’S RIGHT AGAINST DELAY.—The
 14 court shall assure that the right of the defendant to a
 15 speedy trial is protected, as provided by the Speedy Trial
 16 Act of 1974 (18 U.S.C. 3161 note).

17 “(c) VICTIM’S RIGHT AGAINST DELAY.—The court
 18 shall assure that the right of the victim to proceedings
 19 free from unreasonable delay is protected. The victim has
 20 the right to be heard regarding any motion to continue
 21 any proceeding. If the court grants a motion to continue
 22 over the objection of the victim, the court shall state its
 23 reasons in writing.”.

24 **SEC. 32. PRESERVING CLAIMED ERROR.**

25 Rule 51(b) of the Federal Rules of Criminal Proce-
 26 dure is amended—

1 (1) in the first sentence, by inserting after “A
2 party” the following: “or a victim”; and

3 (2) in the second sentence, by inserting after
4 “If a party” the following: “or a victim”.

5 **SEC. 33. DIRECTION TO SENTENCING COMMISSION.**

6 The United States Sentencing Commission is directed
7 to make appropriate amendments to sentencing guidelines,
8 policy statements, and official commentary to ensure that
9 crime victims have meaningful participation in the sen-
10 tencing process.

○